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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,232	09/18/2003	Akira Masumura	645-145A	8489
47888	7590	03/07/2005	EXAMINER	
HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036			SAMPLE, DAVID R	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/666,232

Applicant(s)

MASUMURA ET AL.

Examiner

David Sample

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 9-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/872842.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

Any rejections and/or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

Claims 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Komiya et al. (US Patent No. 4,990,468).

Examples 5-12, 15-20 of Komiya et al. anticipate the glass composition recitations, refractive index and dispersion of claims 9 and 11. See Tables 1 and 2, col's 4-6. It should be noted that the 81 wt% of the  $\text{Al}(\text{PO}_3)_3$  is  $\text{P}_2\text{O}_5$  and 19 wt% is  $\text{Al}_2\text{O}_3$ .

The reference fails to disclose the  $\Delta n$  recitations of instant claim 10 and 12. However, a glass's properties are determined by its composition, and the composition of the reference is identical to the claimed composition. For this reason, the  $\Delta n$  properties recited in claims 10 and 12 are assumed to be inherent to the glass of the reference. See MPEP 2112.

#### ***Response to Arguments***

Applicant's arguments filed December 13, 2004 have been fully considered but they are not persuasive.

Rejection over Komiya et al. (US Patent No. 4,990,468)

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Applicants argue that the examples of Komiya et al. do not anticipate the instant examples when converted to mass percent. This argument is not deemed persuasive. The examiner believes that weight percent and mass percent are equivalent. The examiner is not clear as to how applicants performed the conversion from mass percent to weight percent which is shown in the appendix to their response. It appears that applicants subtracted out the fluorine content when performing the conversion. The present claims do not recite the composition in such a manner, nor does the reference report the composition in such a manner.

It is the examiner's opinion that applicants conversion chart reciting "parts by weight" is comparable to the present claims (because the  $\text{Al}(\text{PO}_4)$  content is converted to a  $\text{P}_2\text{O}_5$  and  $\text{Al}_2\text{O}_3$ ).

Applicants assert that the glasses of Komiya et al. contain more than 70%  $\text{MgF}_2$ ,  $\text{CaF}_2$ ,  $\text{SrF}_2$ , and  $\text{BaF}_2$ . This argument is not deemed persuasive because all of the examples relied upon for anticipation contain the recited amounts of  $\text{MgF}_2$ ,  $\text{CaF}_2$ ,  $\text{SrF}_2$ , and  $\text{BaF}_2$ . See applicants conversion chart for Komiya, table titled, "parts by weight".

Applicants assert that the compositions of Komiya et al. contain more than 20%  $\text{Gd}_2\text{O}_3$ . This argument is not deemed persuasive because all of the examples relied upon for anticipation contain 20% or less  $\text{Gd}_2\text{O}_3$ . See applicants conversion chart for Komiya, table titled, "parts by weight".

Rejection over Otsuka et al. (US Patent No. 5,017,520)

Applicants' amendment to the range of NaF has overcome this rejection.

Rejection over Nozawa (US Patent No. 4,358,543)

Applicants' amendment to the range of  $\text{AlF}_3$  has overcome the rejection.

***Allowable Subject Matter***

Claims 13 and 14 are allowed. The prior art fails to disclose or suggest a glass having the recited composition and Abbe number.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (572)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Sample  
Primary Examiner  
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